

## **REMARKS**

### **I. IN THE OFFICE ACTION**

The Examiner provisionally rejected claims 1-23 under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over claims 1-20 of copending Application No. 10/826,580. Office Action, page 2. The Examiner states that “[a]lthough the claims are not identical, they are not patentably distinct from each other because the process for forming a drag reducing agent and the drag reducing agent slurry so produced may be the same.” *Id.* The Examiner notes that the rejection is a “provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.” *Id.*

### **II. DISCUSSION**

As noted by the Examiner in the Office Action, a timely filed terminal disclaimer in compliance with 37 C.F.R. § 1.321(c) may be used to overcome an actual or provisional rejection based upon nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application as required by 37 C.F.R. § 1.130(b).

Submitted herewith is a Terminal Disclaimer in compliance with 37 C.F.R. § 1.321(c) together with a check in the amount of \$65.00 as required by 37 C.F.R. § 1.20(d). The present application and Application Serial No. 10/826,580 are commonly owned by Assignee Energy & Environmental International, L.C. as evidenced by the assignment recorded with the U.S. Patent and

Application Serial No. 09/877,341  
Response To Office Action dated March 28, 2005  
In response to Office Action mailed March 23, 2005

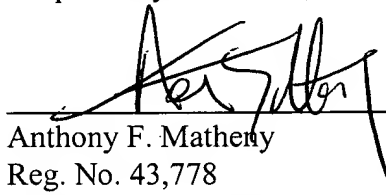
Trademark Office at Reel 011892, Frame 0142. Accordingly, the submitted Terminal Disclaimer is in compliance with 37 C.F.R. § 1.321(c) and 37 C.F.R. § 1.130(b). Therefore, Applicant respectfully requests that the provisional obviousness-type double patenting rejection of claims 1-23 be withdrawn.

### III. CONCLUSION

In view of the above remarks, Applicant respectfully requests withdrawal of the rejection of claims 1-23 and issuance of a notice of allowance with respect to claims 1-23. In order to expedite the examination of this application, Applicant requests the Examiner to contact the undersigned at (713) 220-4168 to discuss any matters that can be resolved by telephone.

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Respectfully submitted,



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